

Reconsideration is requested of the rejection of claims 1 and 41, and claims depending therefrom, as anticipated by the patent to Kruger et al.

Considering first claim 1, which has been rewritten as claim 43, claim 43 recites a valve member, as opposed to a diaphragm. This terminology is from the specification, and definitely indicates, as do the drawings, that the valve member is a relatively rigid member as opposed to a diaphragmatic structure. Kruger et al. shows a diaphragm rather than a rigid valve member, so this part of the structure is different. Claim 43 further describes the structure and function whereby the one valve member has three positions: 1) the valve member engages the exhaust opening to close the exhaust opening; 2) the valve member is displaced towards the inside of the mask, and is still in sealing contact with the exhaust opening to close the exhaust opening; and, 3) the valve member is displaced outwardly to open the exhaust opening. Kruger et al. clearly has no such structure.

The present invention uses a single significant spring means for biasing the valve member towards its closed position. While there are two springs shown in Fig. 1 of the drawings, the spring 6 is not significantly affected by the counter force of spring 11 when the valve member is in the second position. Spring 11 is present simply to return lever 9 to its rest position on the control jet 12. Kruger, on the other hand, relies on the combined force between springs 29 and 20 to determine the exhalation pressure, and spring 20 determines positive pressure alone. It will thus be seen that the Kruger device is quite complex, having many levers and springs to control the ingress and egress of gas. Further, the Kruger device has an air supply lever 34 connected at all times to the center of the diaphragm, attached to the stem 10 (carrier), while the device of the present invention has a single lever 9 that is contacted by the valve member 1 only when the valve member 1 is in the second position.

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The present device is simple and reliable, and constitutes a notable improvement over the Kruger device.

Concerning claim 41, it must be noticed that the claim specifies the valve member 16 which holds back the air supply at 14. When the lever 9 is moved to allow entry of breathable air, the valve member 16 allows air under pressure to pass through the holes 18 and to be "exhausted" through the flap valve 19. By contrast, the "exhaust" in Kruger et al. pointed out by the Examiner is the port for exhausting exhaled gas. Careful reading of claim 41 will show that the claim is accurately stated, and is clear. It is respectfully submitted that claim 41 claims an invention clearly distinguished from the Kruger et al. device, and should be allowable.

Reconsideration is requested of the rejection of claims as being obvious in view of the patents to Kruger et al. and Hansen. The "adjusting means" of Hansen is a means to redirect air--as in louvers or the like. The adjusting means of the present applicant is to adjust the point at which the valve member 1 moves the lever 9, which causes the valve to admit breathable gas to the mask. These are sufficiently different that claim 7, in the combination of claim 43, should be allowable.

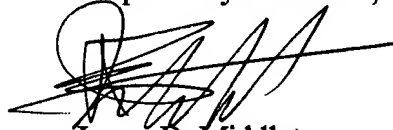
With respect to the patent to Gongoll et al., it should be noted that the exhale valve is a flap 18 around the periphery of the device, while the speech diaphragm is in the center. Thus, Gongoll et al. has the ideal context in which to combine the valve and the speech diaphragm--and he did not do so. Such a combination cannot be said to be obvious.

All the cited prior art has been reviewed and it is respectfully submitted that the claims as amended are allowable over the prior art. The present invention is the only apparatus having the single valve member disposable in three different positions to control egress of

exhaled gas, and ingress of breathable gas. The idea is new, and the structure is new, so the device should be patentable.

Effort has been made by this amendment to place the application in condition for allowance, and such action is solicited. If the Examiner has any question about the application, or this amendment, a telephone call to the undersigned attorney of record is invited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. B. Middleton', with a large, stylized initial 'J' and a long horizontal stroke extending to the right.

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